

MEETING #1
March 25, 2003, 4:00 - 6:00 p.m.
RI Department of Environmental Management
Room 300
235 Promenade Street
Providence, RI 02908

(Waited until 4:08 p.m. to accommodate late entrants).

IN ATTENDANCE

(see Attendance Sheet for Meeting #1, provided on the RIDEM UST ERP Webpage)

WELCOME

George Frantz, U.S. EPA Special Projects Coordinator, Office of Technical Assistance

George has been involved with Environmental Results Programs (ERP) since 1996. He has worked in industry, with technical assistance groups, and with EPA and State regulators. ERP captures the imagination because it is so simple. In the printing industry, there were three large volumes of regulations the printers were responsible for in Massachusetts. ERP was able to effectively reduce these volumes of regulations to a 36 page work book. ERP is a popular idea with both industry and regulators. In RI, they have already implemented an autobody ERP. Twelve other states utilize ERP as well.

Stakeholder operations/input are key to this type of program. The stakeholders in attendance at this first meeting know what is involved at the stakeholder level. EPA and RIDEM know the regulations involved. Stakeholder participation is appreciated. EPA and RIDEM are looking forward to the give and take that will take place over the course of this series of stakeholder meetings.

Ron Gagnon, RIDEM, Chief, Office of Technical and Customer Assistance

The goal of this meeting is to provide all of the stakeholders with a better understanding of the ERP process by the end of the day. Some funding for this program (\$30,000) has been provided by EPA. Ron welcomed Nancy Beattie, Congressman Jim Langevin's Office, and Timothy Mooney, Senator Lincoln Chafee's Office.

SLIDE PRESENTATION

The slides were made available as handouts during the meeting. The slides are also available on the RIDEM UST ERP Webpage at <http://www.state.ri.us/dem/programs/benviron/assist/usterp/index.htm>. The notes are intended to supplement the contents of each slide.

Slide No.	Slide Contents	Notes
<i>Speaker Rich Enander</i>		
1 (Title Slide)	Underground Storage Tanks Environmental Results Program March 25, 2003 TECHNICAL & CUSTOMER ASSISTANCE 235 Promenade Street, Providence, RI 02908 401/222-6822; www.state.ri.us/DEM RI DEPARTMENT OF ENVIRONMENTAL MANAGEMENT	The ERP is designed to ensure environmental compliance. ERP programs are new, not only to industry, but to RIDEM and EPA as well. Rich worked in industry before he started working at RIDEM. If there had been a program like this before it would have made his job easier. MA deserves a lot of credit for developing this program.
2	Environmental Results Program (ERP) -What is ERP? - A program that “seeks to cost-effectively improve environmental performance through a less burdensome, more transparent regulatory system (MA DEP)”	
3	RI DEM’s View: - Fundamental redesign in approach to regulation - Practical and efficient means for ensuring environmental performance Will not ... - Replace existing state/federal regulations or regulatory structures	Limited staff, limited resources, many industries
4	Brief Historical Perspective MA DEP Roots (1995) - Dry cleaning, printing, photoprocessing RI 2nd State in Nation (2002) - Autobody industry - Expanded program: environment + health & safety - UST 2nd sector	400 licensed autobody refinishing facilities. Different than MA, RI included health and safety (H&S) issues in their ERP (for the autobody sector). H&S issues were included in the autobody ERP because RI did some testing of workers in the sector and found lead exposure to be an issue in autobody sector.
5	Environmental Results Program Three Major Components - Compliance Certification - Performance Measurement - Technical Assistance	Industry mostly concerned about 1 st and 3 rd bullets. Regulators mostly concerned with 2 nd bullet.
6	Compliance Certification - Certification (self-certify, third party certification, etc.) to DEM that facilities are complying with the	Will certify that they comply with Regulations that exist on the books

	<p>environmental protection requirements that apply to their business.</p> <ul style="list-style-type: none"> - Two certification components: <ul style="list-style-type: none"> 1. Certification Workbook 2. Self-Certification Checklist 	
7	<p>Certification Workbook: Autobody Example</p> <ul style="list-style-type: none"> - The workbook explains the standards that apply to autobody shops, and how to make sure that owners are complying with them. The workbook is designed to be used in conjunction with the accompanying self-certification checklist and can also be used as a reference for each facility. 	<p>The ERP workbooks and checklists are written in plain English so they are easy to understand.</p>
8	<p>Certification Workbook Contents</p> <ul style="list-style-type: none"> - Workbook (Blue Book) covers the following areas: <ul style="list-style-type: none"> -Air Issues -Wastewater Issues -Hazardous Waste -Pollution Prevention -Worker Health and Safety - It contains example written plans that autobody shops can use to comply with regulations 	<p>Chapter dedicated to each compliance issue. Does more than just translate the regulations. The workbooks may also include appendices (i.e., the contingency plan template in the autobody workbook).</p>
9	<p>Certification Checklist Booklet</p> <p>The checklist contains a series of compliance questions, which generally require “yes” or “no” answers about whether or not autobody shops are following the applicable environmental and occupational health and safety requirements.</p>	<p>The checklist requires either yes or no answers.</p>
10	<p>Return to Compliance Forms</p> <p><u>Completed Checklists</u> are returned to RIDEM along with <u>Return to Compliance Forms</u> that specify regulatory deficiencies with targeted dates for correction.</p>	<p>Body shops return checklists to DEM and if compliance issues are identified they submit “return to compliance” forms.</p>
11	<p>Performance Measurement</p> <p><u>Performance Measurement</u> = evaluation methodology that uses random sampling and statistical analysis to measure improvements in environmental compliance (MADEP).</p>	<p>Performance Measurement is expected to be conducted using an approach similar to the MADEP statistical evaluation. Random sampling protocol by industry sector as a whole. Before program is launched, go out and conduct baseline audit. A predetermined number of facilities is determined, the sites are selected randomly. Launch program in 6 to 12 months. Then conduct post-implementation audits. Conduct comprehensive inspections on randomly selected facilities following a similar random selection methodology as the baseline audits. Compare results to see if program impacts sector's performance and compliance.</p>

12	Performance Measurement 1) <u>Baseline Audits</u> (pre-implementation) = (n) facilities are randomly selected for comprehensive auditing. 2) <u>Post-implementation Audits</u> = (n) facilities are again randomly selected for audits 3) The Pre- and Post-implementation data sets are <u>compared (statistically)</u> for improvement in environmental performance.	
13	Performance Measurement - Before and After comparisons are based on Environmental Business Practice Indicators (EBPIs) - EBPIs = key indicators of environmental compliance, such as a specific type of recordkeeping (auto body sector ex'': HW drum labeling, emergency procedures plans)	Statistical analysis considers EBPIs
14	Technical/Compliance Assistance Technical support (training and telephone assistance, for example) throughout program implementation	Training and maybe telephone assistance will be used to provide information on the program.
15	Technical/Compliance Assistance - Deficiencies found during pre- and post-implementation inspections may be subject to enforcement. - Targeted inspections may occur along with random inspections.	Compliance issues found during baseline and post-implementation inspections may be subject to enforcement.
<i>Ron Gagnon</i>		
16	Program Elements - UST Registration - Existing System Requirements - leak detection - O&M/record-keeping - abandonment prohibition - Mandatory Replacement of Single Walled Tanks - December 15, 2015 - Licensing for Tightness Testers and Testing Businesses - Financial Responsibility	
17	UST Registration - Commercial USTs of any size storing motor fuel or hazardous materials must be registered with DEM - includes waste oil USTs - includes holding tanks serving floor drains - USTs storing fuel oil for heating commercial facilities must be registered	

18	UST Universe - Federally Regulated Tanks - 1,910 Tanks - 752 Facilities - 427 Gas Stations - State Tanks - Heating Oil - Approximately 1,500 Tanks	
19	Legislation - Rhode Island General Law 46 -12-30.2 (b) The regulations shall require that all underground storage tanks used for petroleum products and subject to registration in this state shall be inspected at least once in each twenty-four (24) month period.	RI General Law 46-12-30.2 requires inspections.
20	RI UST ERP - Legislative Mandate for Biennial Inspections - Resource Constraints Allow Facility Inspections Once Every Six Years - Management Decision to Use ERP to Meet Legislative Mandate	
21	Designing A Program EPA - NE Contractor Assistance - Stakeholder Process - RI Workbook from EPA Workbook - Multi-media Components - Computer System Evaluation	TechLaw will be facilitating future meetings and keeping the RI UST ERP process organized.
22	Stakeholder Process - Stakeholders = Owners, Operators, Consultants, Other interested parties - Six Stakeholder meetings scheduled - ERP Introduction, ERP Design - Who will conduct certifications?, Workbook Development - Multi-media Elements - Complete Process by July 2003	
23	ERP Design Elements - Self - Certification - Third Party Certification - Standards - Testing - Certification by qualified Vendors through an Open Bid Process	ERP Design Elements. This slide will be the focus of the next two meetings.
24	ERP Design Elements - Multi-media Components for Workbook - Stage Two Vapor Recovery - Hazardous Waste Management - Waste Oil Management - Waste Tire Management - Weights and Measurements	

25	ERP Design Elements <ul style="list-style-type: none"> - Statistical Analysis - Pre - Implementation Audits <ul style="list-style-type: none"> - Establish Compliance Baseline - Enforcement where necessary - Choose EBPIs - Distribute Workbooks and Checklists - Post - Implementation Audits 	Statistical analysis. EPA and DEM will work to select the EBPIs internally and report the results back to “you” (industry). Post-implementation inspections may also be targeted inspections. DEM is expecting that there will be a 2-year cycle for the ERP program. QUESTION from George Frantz: Talk more about “return to compliance concept”. Response - If you report non-compliance issues through the ERP process and then fix the compliance issue through the “return to compliance” process you may not be subject to punitive penalties (that’s the way they do it for autobodies). Return to compliance plan. QUESTION: if you submit a “return to compliance plan,” does that give you 2 years to get back into compliance? Response- [The “return to compliance” form that is submitted to DEP will have information on the schedule proposed for getting back into compliance. The schedule that is provided in the form will be followed.]
26	ERP Design Elements <ul style="list-style-type: none"> - Reduced Program for State Tanks - Workbook = Couple of Pages - Checklist = Single Sheet - Low Inspection Priority - Performance Measures May Not Be Necessary 	
27	Advantages of ERP <ul style="list-style-type: none"> - All Facilities/Tanks are Inspected - Assistance/Training/P2 - Enforcement <ul style="list-style-type: none"> - Random Inspections - Targeted Inspections - Performance Measures - EBPIs <ul style="list-style-type: none"> - Measure Individual Facility Improvement - Measure Sector Improvement 	Still strong enforcement component.
28	Screen Capture of Autobody ERP Webpage at http://www.state.ri.us/dem/programs/benviron/assist/abdycert/abdycert.htm	This is a sample of the Autobody Website. The UST ERP will have a website at http://www.state.ri.us/dem/programs/benviron/assist/usterp/index.htm
29	Meeting Schedule <ul style="list-style-type: none"> - April 15, 2003 - April 22, 2003 - May 20, 2003 - June 17, 2003 - July 8, 2003 	Next 2 meetings are expected to focus on the certification process, the next few meetings will focus on aspects of the workbook.

QUESTIONS AND ANSWERS

Q: Will there be a time line regarding when the owner/operator (O/O) must submit a return to compliance form?

A: Yes. We intend to do that with this program. Ron provided examples from autobody program. George clarified that o/o's will have a limit (i.e., 6 months) to get back into compliance.

Q: Why are state tanks less critical?

A: There may be a misunderstanding about that. Slide 26 referred to tanks subject to state, but not federal regulations, regardless of the owner. State-only regulated tanks are used to store heating oil and are smaller tanks (1,100 gallons). State and municipally-owned facilities with USTs will be treated the same as privately-owned UST facilities.

Q: If you are in the process of filling out a RTC form and you get audited, what happens?

A: Ron - it's an ongoing program and you may get audited. Also, you may not unless there's a specific complaint.

Q: How will the ERP be enforced? The questioner's site has been inspected 3-4 times, he knows others that have never been inspected.

A: Ron - the ERP program is expected to level that playing field by providing current data on all sites. This holds true in autobody. George Frantz clarified - certain types of answers on ERP checklist forms are a give-away that those folks didn't read the workbook. Questioner clarified, previous inspection program was lacking, in his opinion. He does under 1 mil gallons a year. He's in a watershed area so he understands why he's targeted, but he recognizes that nearby facilities that are not inspected as frequently have a competitive advantage over his operation. Beth Termini, EPA, clarified - based on her experience with MA DEP's program, the consensus is that the ERP program will help to level the playing field.

Q: Is there a possibility that DEM could implement a public information system like a poster each facility could display to show they are in compliance?

A: Ron said yes, they had been looking at that. George clarified that suggestions like this are reasons stakeholders are important. Ron mentioned red tag/green tag system.

Q: NH has a third party system. Can we look at that?

A: Ron - yes, we can. This stakeholder meeting process is the time to do that.

Q: How will cleanups be managed?

A: Ron - This program is more for facilities without existing leaks. Bruce Catterall, Manager, RIDEM UST/LUST Division, added further clarification to this point.

Q: State should be held to same standard as industry.

A: Ron - we do. Bruce Catterall clarified that EPA requires the state to meet the same standards for all tanks. Ron clarified that this program is seeking to level the playing field.

Q: What is the date of RI General Law 46-12-30.2

A: Ron (with discussion) - 2002

Q: Ron asked if this was a good meeting time?

A: (There were no indications that this was not a good meeting time.)

Q: Legislature is in session until May 17th. Does this affect anyone?

A: (No responses indicating that this affected anyone.)

Q: Will agenda's be provided for each meeting?

A: Yes, we will try to do that using the web page provided for the RIDEM UST ERP (<http://www.state.ri.us/dem/programs/benviron/assist/usterp/index.htm>).

Q: Kim, U.S. EPA - pointed out that stakeholders should please make a commitment to attend all six meetings.

A: (no specific responses)

Q: Will these meetings consider the results of the UST Program meetings that took place last year to review specific regulatory changes?

A: Ron - yes.

Q: Is it possible to see an example of a checklist?

A: Yes, see web site for autobody checklist (<http://www.state.ri.us/dem/programs/benviron/assist/abdycert/cheklist.pdf>) or see MA DEP web pages for MA DEP ERP checklists (<http://www.state.ma.us/dep/erp/erpforms.htm>).

Q: Has the UST checklist been developed yet?

A: Ron - RIDEM, U.S. EPA, and TechLaw will be developing it based on stakeholder input and the upcoming workgroup meetings. Please view the Autobody checklist to see what a checklist looks like.

Q: Will we be suggesting some working rules for the group?

A: Ron - TechLaw will be facilitating meetings. Todd Quillen, TechLaw, inquired whether there were any specific concerns and clarified that we would set rules, as necessary. All comments provided to RIDEM, U.S. EPA, or TechLaw will be made available to the UST Steering Committee.

Q: Statement in invitation letter indicated that USTs continue to be a problem. What is the reason for them to still be a concern? Were the 1998 regulations not effective?

A: Bruce Catterall - It's related more to the oxygenates in the gas. MTBE - a little bit goes a long way. There may be less released but what is release can make an impact. Bill Torrey, U.S. EPA, clarified that the systems are more sophisticated too.

Q: Bruce Catterall asked how many owner/operator representatives were here. About 13 attendees raised their hands.

Meeting adjourned at approximately 5:30 p.m.